



House of Representatives

General Assembly

File No. 470

February Session, 2008

Substitute House Bill No. 5804

House of Representatives, April 4, 2008

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT REGULATING THE SALE OF OUTDOOR WOOD-BURNING FURNACES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-174k of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) For purposes of this section, "business day" means any day
4 except a Sunday or a state holiday, "seller" means a person who sells
5 outdoor wood-burning furnaces and "outdoor wood-burning furnace"
6 means an accessory structure or appliance designed to be located
7 outside living space ordinarily used for human habitation and
8 designed to transfer or provide heat, via liquid or other means,
9 through the burning of wood or solid waste, for heating spaces other
10 than where such structure or appliance is located, any other structure
11 or appliance on the premises, or for heating domestic, swimming pool,
12 hot tub or jacuzzi water. "Outdoor wood-burning furnace" does not
13 include a fire pit, wood-fired barbecue or chiminea.

14 (b) No person shall, from July 8, 2005, to the effective date of
15 regulations promulgated by the United States Environmental
16 Protection Agency to regulate outdoor wood-burning furnaces,
17 construct, install, establish, modify, operate or use an outdoor wood-
18 burning furnace, unless (1) the outdoor wood-burning furnace was
19 constructed, installed, established, modified, operated or in use prior
20 to July 8, 2005, or (2) the outdoor wood-burning furnace complies with
21 the following:

22 (A) Installation of the outdoor wood-burning furnace is not less
23 than two hundred feet from the nearest residence not serviced by the
24 outdoor wood-burning furnace;

25 (B) Installation of the chimney of the outdoor wood-burning furnace
26 is at a height that is more than the height of the roof peaks of the
27 residences that are located within five hundred feet of the outdoor
28 wood-burning furnace, which residences are not serviced by the
29 outdoor wood-burning furnace, provided the chimney height is not
30 more than fifty-five feet;

31 (C) No other materials are burned in the outdoor wood-burning
32 furnace other than wood that has not been chemically treated; and

33 (D) Installation and operation of the outdoor wood-burning furnace
34 is in accordance with the manufacturer's written instructions, provided
35 such instructions do not conflict with the provisions of this section.

36 (c) (1) Every contract for the purchase of an outdoor wood-burning
37 furnace shall provide that such contract may be cancelled within three
38 business days after the date of receipt by the buyer of a copy of the
39 contract, by written notice delivered by certified or registered United
40 States mail to the seller or the seller's agent at an address which shall
41 be specified in the contract. Cancellation shall be without liability on
42 the part of the buyer, except for the fair market value of services
43 actually received, and the buyer shall be entitled to a refund of the
44 entire consideration paid for the contract, if any, less the fair market
45 value of the services already received. Such right of cancellation shall

46 not be affected by the terms of the contract and may not be waived or
47 otherwise surrendered.

48 (2) A copy of the contract shall be delivered to the buyer at the time
49 the contract is signed. All contracts shall (A) be in writing and signed
50 by the buyer, (B) designate the date on which the buyer actually signs
51 the contract, (C) identify the address of the location at which the buyer
52 entered into the contract, (D) include a provision advising the buyer to
53 contact the municipality where such buyer resides to ascertain whether
54 there is a local ordinance banning the installation of outdoor wood-
55 burning furnaces, and (E) contain a statement of the buyer's rights that
56 complies with the requirements of this subsection. Such statement
57 shall appear in the contract under the conspicuous caption: "BUYER'S
58 RIGHT TO CANCEL", and read as follows:

59 "If you wish to cancel this contract, you may cancel by mailing a
60 written notice by certified or registered mail to the address specified
61 below. The notice must say that you do not wish to be bound by this
62 contract and must be delivered or mailed before midnight of the third
63 business day after you sign this contract. The notice must be delivered
64 or mailed to:

65 (Seller's name)

66 (Seller's address)"

67 (3) The seller shall, at the time the contract is signed, provide an
68 informational sheet concerning the proper location and operation of
69 outdoor wood-burning furnaces, developed by the Commissioner of
70 Environmental Protection in consultation with the Commissioner of
71 Consumer Protection. The seller shall obtain the buyer's
72 acknowledgement of receipt, including date of receipt, of such
73 informational sheet on a form prescribed by the Commissioner of
74 Environmental Protection.

75 (4) If a seller materially violates the provisions of this subsection, the
76 buyer of an outdoor wood-burning furnace may cancel the contract not

77 later than three business days after the buyer has knowledge of such
78 violation.

79 (5) Any violation of this subsection shall be deemed an unfair or
80 deceptive trade practice under to subsection (a) of section 42-110b.

81 ~~[(c)]~~ (d) The provisions of this section shall be enforced by the
82 Commissioner of Environmental Protection and may be enforced by
83 the municipality affected by the operation or potential operation of an
84 outdoor wood-burning furnace.

85 ~~[(d)]~~ (e) Any person who operates an outdoor wood-burning
86 furnace in violation of this section shall be deemed to have committed
87 an infraction and shall be fined not more than ninety dollars. Each day
88 of operation of such outdoor wood-burning furnace in violation of this
89 section shall be a separate violation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	22a-174k

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Consumer Protection, Dept.	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a potential minimal revenue gain to the state as violations cited in the bill are subject to the Connecticut Unfair Trade Practices Act (CUTPA). It is anticipated that there will be few violations of provisions of the bill.

The Out Years

The fiscal impact identified above would continue into the future.

OLR Bill Analysis**HB 5804*****AN ACT REGULATING THE SALE OF OUTDOOR WOOD-BURNING FURNACES.*****SUMMARY:**

The bill allows buyers of outdoor wood-burning furnaces, despite any contractual terms or waivers to the contrary, to cancel their contract under two circumstances.

First, the buyer may cancel the contract within three business days of purchase. To exercise this right to cancellation, the buyer must send the seller or the seller's agent notice through certified or registered mail. The bill entitles the buyer to a full refund, minus the fair market value for any services received.

Second, the bill allows the buyer to the right to cancel the contract within three days of the knowledge of any violations to the procedures outlined below. The bill does not specify how the buyer notifies the seller of the contract cancellation.

The bill requires the seller to provide the buyer with a copy of a contract for outdoor wood-burning furnaces at the time of purchase. The contract must:

1. inform the buyer of the right to cancellation and the cancellation procedure outlined above;
2. provide the seller's name and address to which the buyer may send a notice of cancellation through certified or registered mail;
3. be in writing and signed by the buyer;

4. be dated according to when the buyer signed the contract;
5. identify where the contract was signed; and
6. advise the buyer to contact the relevant municipality regarding local ordinances banning the use of outdoor wood-burning furnaces.

The bill also requires the seller to provide the buyer with an informational sheet about the proper location and operation of outdoor wood-burning furnaces, developed by the environmental protection commissioner in consultation with the consumer protection commissioner. Upon receipt of this sheet, the buyer must sign and date an acknowledgement form, also prescribed by the environmental protection commissioner.

A violation is an unfair trade practice and subject to the appropriate civil proceedings under the Connecticut Unfair Trade Practices Act (CUTPA).

EFFECTIVE DATE: October 1, 2008

BACKGROUND

CUTPA

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the Consumer Protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders, award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for each willful violation and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/14/2008)